

Form **990**Department of the Treasury
Internal Revenue Service**Return of Organization Exempt From Income Tax**

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation)

▶ The organization may have to use a copy of this return to satisfy state reporting requirements

OMB No 1545-0047

2006Open to Public
Inspection**A** For the 2006 calendar year, or tax year beginning **JUL 1, 2006** and ending **JUN 30, 2007****B** Check if applicable

- ☐ Address change
☐ Name change
☐ Initial return
☐ Final return
☐ Amended return
☐ Application pending

Please use IRS label or print or type See Specific Instructions

C Name of organization**INSTITUTE FOR JUSTICE**

Number and street (or P O box if mail is not delivered to street address)

901 NORTH GLEBE ROAD

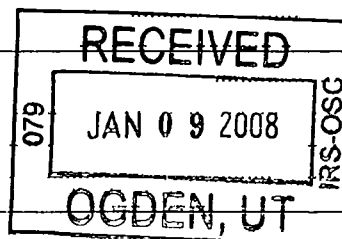
City or town, state or country, and ZIP + 4

ARLINGTON, VA 22203**D** Employer identification number**52-1744337****E** Telephone number**703-682-9320****F** Accounting method ☐ Cash ☒ Accrual
☐ Other (specify) ▶

• Section 501(c)(3) organizations and 4947(a)(1) nonexempt charitable trusts must attach a completed Schedule A (Form 990 or 990-EZ)

G Website: ▶ **WWW.IJ.ORG****J** Organization type (check only one) ▶ ☒ 501(c) (3) ◀ (insert no) ☐ 4947(a)(1) or ☐ 527**K** Check here ☐ if the organization is not a 509(a)(3) supporting organization and its gross receipts are normally not more than \$25,000. A return is not required, but if the organization chooses to file a return, be sure to file a complete return**H and I** are not applicable to section 527 organizations**H(a)** Is this a group return for affiliates? ☐ Yes ☒ No**H(b)** If "Yes," enter number of affiliates ▶ **N/A****H(c)** Are all affiliates included? **N/A** ☐ Yes ☐ No
(If "No," attach a list)**H(d)** Is this a separate return filed by an organization covered by a group ruling? ☐ Yes ☒ No**I** Group Exemption Number ▶ **N/A****M** Check ☐ if the organization is not required to attach Sch. B (Form 990, 990-EZ, or 990-PF)**L** Gross receipts. Add lines 6b, 8b, 9b, and 10b to line 12 ▶ **10,392,746.****Part I Revenue, Expenses, and Changes in Net Assets or Fund Balances**

Revenue	1	Contributions, gifts, grants, and similar amounts received			
	a	Contributions to donor advised funds		1a	
	b	Direct public support (not included on line 1a)		1b	8,481,530.
	c	Indirect public support (not included on line 1a)		1c	
	d	Government contributions (grants) (not included on line 1a)		1d	
	e	Total (add lines 1a through 1d) (cash \$ 8,481,530. noncash \$)		1e	8,481,530.
	2	Program service revenue including government fees and contracts (from Part VII, line 93)		2	252,097.
	3	Membership dues and assessments		3	
	4	Interest on savings and temporary cash investments		4	306,852.
	5	Dividends and interest from securities		5	
Expenses	6a	Gross rents	SEE STATEMENT 1	6a	90,269.
	b	Less rental expenses		6b	
	c	Net rental income or (loss) Subtract line 6b from line 6a		6c	90,269.
	7	Other investment income (describe ▶)		7	
	8a	Gross amount from sales of assets other than inventory	(A) Securities 1,261,998.	8a	
	b	Less cost or other basis and sales expenses	1,260,656.	8b	
	c	Gain or (loss) (attach schedule)	1,342.	8c	
	d	Net gain or (loss) Combine line 8c, columns (A) and (B)	STMT 2	8d	1,342.
	9	Special events and activities (attach schedule) If any amount is from gaming, check here <input type="checkbox"/>			
	a	Gross revenue (not including \$ of contributions reported on line 1b)	9a		
Net Assets	b	Less direct expenses other than fundraising expenses	9b		
	c	Net income or (loss) from special events Subtract line 9b from line 9a	9c		
	10a	Gross sales of inventory, less returns and allowances	10a		
	b	Less cost of goods sold	10b		
	c	Gross profit or (loss) from sales of inventory (attach schedule) Subtract line 10b from line 10a	10c		
	11	Other revenue (from Part VII, line 103)		11	
	12	Total revenue. Add lines 1e, 2, 3, 4, 5, 6c, 7, 8d, 9c, 10c, and 11		12	9,132,090.
	13	Program services (from line 44, column (B))		13	6,809,506.
	14	Management and general (from line 44, column (C))		14	705,841.
	15	Fundraising (from line 44, column (D))		15	1,166,438.
Net Assets	16	Payments to affiliates (attach schedule)		16	
	17	Total expenses. Add lines 16 and 44, column (A)		17	8,681,785.
	18	Excess or (deficit) for the year Subtract line 17 from line 12		18	450,305.
	19	Net assets or fund balances at beginning of year (from line 73, column (A))		19	14,139,175.
	20	Other changes in net assets or fund balances (attach explanation)		20	2,298,018.
	21	Net assets or fund balances at end of year Combine lines 18, 19, and 20		21	16,887,498.

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01-18-07

LHA For Privacy Act and Paperwork Reduction Act Notice, see the separate instructions.

Form 990 (2006)

G17 18

SCANNED JAN 28 2008

Part II Statement of Functional Expenses

All organizations must complete column (A). Columns (B), (C), and (D) are required for section 501(c)(3) and (4) organizations and section 4947(a)(1) nonexempt charitable trusts but optional for others.

Do not include amounts reported on line 6b, 8b, 9b, 10b, or 16 of Part I	(A) Total	(B) Program services	(C) Management and general	(D) Fundraising
22a Grants paid from donor advised funds (attach schedule) (cash \$ <u>0</u> • noncash \$ <u>0</u> .) If this amount includes foreign grants, check here <input type="checkbox"/>	22a			
22b Other grants and allocations (attach schedule) (cash \$ <u>0</u> • noncash \$ <u>0</u> .) If this amount includes foreign grants, check here <input type="checkbox"/>	22b			
23 Specific assistance to individuals (attach schedule)	23			
24 Benefits paid to or for members (attach schedule)	24			
25a Compensation of current officers, directors, key employees, etc. listed in Part V-A	25a 639,220.	537,840.	50,307.	51,073.
b Compensation of former officers, directors, key employees, etc. listed in Part V-B	25b 0.	0.	0.	0.
c Compensation and other distributions, not included above, to disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B)	25c			
26 Salaries and wages of employees not included on lines 25a, b, and c	26 3,331,241.	2,865,013.	230,053.	236,175.
27 Pension plan contributions not included on lines 25a, b, and c	27 311,186.	250,145.	34,711.	26,330.
28 Employee benefits not included on lines 25a - 27	28 225,487.	188,257.	16,713.	20,517.
29 Payroll taxes	29 273,696.	230,775.	21,628.	21,293.
30 Professional fundraising fees	30			
31 Accounting fees	31 28,150.		28,150.	
32 Legal fees	32 39,929.	22,400.	16,774.	755.
33 Supplies	33 116,470.	91,135.	8,396.	16,939.
34 Telephone	34 100,383.	87,669.	7,145.	5,569.
35 Postage and shipping	35 251,410.	47,134.	7,570.	196,706.
36 Occupancy	36 854,154.	714,672.	69,622.	69,860.
37 Equipment rental and maintenance	37 44,064.	11,333.	31,789.	942.
38 Printing and publications	38 584,495.	217,720.	2,254.	364,521.
39 Travel	39 365,253.	338,785.	8,152.	18,316.
40 Conferences, conventions, and meetings	40 184,614.	170,134.	15,340.	-860.
41 Interest	41 3,556.		3,556.	
42 Depreciation, depletion, etc. (attach schedule)	42 345,229.	283,656.	30,336.	31,237.
43 Other expenses not covered above (itemize):				
a	43a			
b	43b			
c	43c			
d	43d			
e	43e			
f	43f			
g SEE STATEMENT 4	43g 983,248.	752,838.	123,345.	107,065.
44 Total functional expenses. Add lines 22a through 43g (Organizations completing columns (B)-(D), carry these totals to lines 13-15)	44 8,681,785.	6,809,506.	705,841.	1,166,438.

Joint Costs. Check ☐ if you are following SOP 98-2.

Are any joint costs from a combined educational campaign and fundraising solicitation reported in (B) Program services?

☐ Yes ☒ NoIf "Yes," enter (i) the aggregate amount of these joint costs \$ N/A, (ii) the amount allocated to Program services \$ N/A.(iii) the amount allocated to Management and general \$ N/A, and (iv) the amount allocated to Fundraising \$ N/A.

Part III Statement of Program Service Accomplishments (See the instructions.)

Form 990 is available for public inspection and, for some people, serves as the primary or sole source of information about a particular organization. How the public perceives an organization in such cases may be determined by the information presented on its return. Therefore, please make sure the return is complete and accurate and fully describes, in Part III, the organization's programs and accomplishments.

What is the organization's primary exempt purpose? ► **SEE STATEMENT 5**

All organizations must describe their exempt purpose achievements in a clear and concise manner. State the number of clients served, publications issued, etc. Discuss achievements that are not measurable (Section 501(c)(3) and (4) organizations and 4947(a)(1) nonexempt charitable trusts must also enter the amount of grants and allocations to others.)

Program Service Expenses
(Required for 501(c)(3) and (4) orgs., and 4947(a)(1) trusts, but optional for others.)

a TO PROTECT THE CONSTITUTIONAL RIGHTS OF AMERICANS THROUGH LITIGATION; EDUCATE THE PUBLIC ABOUT ISSUES VITAL TO LIBERTY THROUGH MEDIA RELATIONS AND OUTREACH EVENTS; TRAIN LAWYERS AND STUDENTS TO PRESERVE CIVIL LIBERTIES.

(Grants and allocations \$) If this amount includes foreign grants, check here ► ☐ 6,809,506.

b

(Grants and allocations \$) If this amount includes foreign grants, check here ► ☐

c

(Grants and allocations \$) If this amount includes foreign grants, check here ► ☐

d

(Grants and allocations \$) If this amount includes foreign grants, check here ► ☐

e Other program services (attach schedule)

(Grants and allocations \$) If this amount includes foreign grants, check here ► ☐

f Total of Program Service Expenses (should equal line 44, column (B), Program services) ► 6,809,506.

Form 990 (2006)

Part IV Balance Sheets (See the instructions)**Note:** Where required, attached schedules and amounts within the description column should be for end-of-year amounts only

		(A) Beginning of year	(B) End of year
Assets	45 Cash - non-interest-bearing	660,888.	45 670,662.
	46 Savings and temporary cash investments		46
	47 a Accounts receivable	47a 52,700.	
	b Less: allowance for doubtful accounts	47b	47c 52,700.
	48 a Pledges receivable	48a 376,400.	
	b Less: allowance for doubtful accounts	48b	48c 376,400.
	49 Grants receivable		49
	50 a Receivables from current and former officers, directors, trustees, and key employees		50a
	b Receivables from other disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B)		50b
	51 a Other notes and loans receivable	51a	
	b Less: allowance for doubtful accounts	51b	51c
	52 Inventories for sale or use		52
	53 Prepaid expenses and deferred charges	130,641.	53 141,010.
	54 a Investments - publicly-traded securities STMT 8 <input type="checkbox"/> Cost <input checked="" type="checkbox"/> FMV	12,008,592.	54a 14,811,831.
	b Investments - other securities <input type="checkbox"/> Cost <input type="checkbox"/> FMV		54b
55 a Investments - land, buildings, and equipment: basis	55a		
b Less: accumulated depreciation	55b	55c	
56 Investments - other	0.	56 0.	
57 a Land, buildings, and equipment: basis	57a 1,997,125.		
b Less: accumulated depreciation STMT 6	57b 775,034.	57c 1,222,091.	
58 Other assets, including program-related investments (describe <input type="checkbox"/>)		58	
59 Total assets (must equal line 74) Add lines 45 through 58	14,469,571.	59 17,274,694.	
Liabilities	60 Accounts payable and accrued expenses	247,056.	60 222,906.
	61 Grants payable		61
	62 Deferred revenue		62
	63 Loans from officers, directors, trustees, and key employees		63
	64 a Tax-exempt bond liabilities		64a
	b Mortgages and other notes payable		64b
	65 Other liabilities (describe <input type="checkbox"/> SEE STATEMENT 7)	83,340.	65 164,290.
	66 Total liabilities. Add lines 60 through 65	330,396.	66 387,196.
Net Assets or Fund Balances	Organizations that follow SFAS 117, check here <input checked="" type="checkbox"/> and complete lines 67 through 69 and lines 73 and 74		
	67 Unrestricted	12,608,184.	67 15,344,194.
	68 Temporarily restricted	1,530,991.	68 1,543,304.
	69 Permanently restricted		69
	Organizations that do not follow SFAS 117, check here <input type="checkbox"/> and complete lines 70 through 74.		
	70 Capital stock, trust principal, or current funds		70
	71 Paid-in or capital surplus, or land, building, and equipment fund		71
	72 Retained earnings, endowment, accumulated income, or other funds		72
	73 Total net assets or fund balances. Add lines 67 through 69 or lines 70 through 72 (Column (A) must equal line 19 and column (B) must equal line 21)	14,139,175.	73 16,887,498.
	74 Total liabilities and net assets/fund balances. Add lines 66 and 73	14,469,571.	74 17,274,694.

Part IV-A **Reconciliation of Revenue per Audited Financial Statements With Revenue per Return** (See the instructions)

a	Total revenue, gains, and other support per audited financial statements		a	11460090.
b	Amounts included on line a but not on Part I, line 12			
1	Net unrealized gains on investments	b1	2,328,000.	
2	Donated services and use of facilities	b2		
3	Recoveries of prior year grants	b3		
4	Other (specify): _____	b4		
	Add lines b1 through b4		b	2,328,000.
c	Subtract line b from line a		c	9,132,090.
d	Amounts included on Part I, line 12, but not on line a :			
1	Investment expenses not included on Part I, line 6b	d1		
2	Other (specify): _____	d2		
	Add lines d1 and d2		d	0.
e	Total revenue (Part I, line 12) Add lines c and d		e	9,132,090.

Part IV-B		Reconciliation of Expenses per Audited Financial Statements With Expenses per Return
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a	Total expenses and losses per audited financial statements		a	8,681,785.
b	Amounts included on line a but not on Part I, line 17			
1	Donated services and use of facilities	b1		
2	Prior year adjustments reported on Part I, line 20	b2		
3	Losses reported on Part I, line 20	b3		
4	Other (specify) _____	b4		
	Add lines b1 through b4		b	0.
c	Subtract line b from line a		c	8,681,785.
d	Amounts included on Part I, line 17, but not on line a :			
1	Investment expenses not included on Part I, line 6b	d1		
2	Other (specify) _____	d2		
	Add lines d1 and d2		d	0.
e	Total expenses (Part I, line 17). Add lines c and d		e	8,681,785.

Part V-A **Current Officers, Directors, Trustees, and Key Employees** (List each person who was an officer, director, trustee, or key employee at any time during the year even if they were not compensated) (See the instructions)

[illegible]

Part VI Other Information (continued)		Yes	No
82 a	Did the organization receive donated services or the use of materials, equipment, or facilities at no charge or at substantially less than fair rental value?	82a	X
b	If "Yes," you may indicate the value of these items here. Do not include this amount as revenue in Part I or as an expense in Part II (See instructions in Part III)	82b	N/A
83 a	Did the organization comply with the public inspection requirements for returns and exemption applications?	83a	X
b	Did the organization comply with the disclosure requirements relating to quid pro quo contributions?	83b	X
84 a	Did the organization solicit any contributions or gifts that were not tax deductible?	84a	N/A
b	If "Yes," did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible?	84b	N/A
85	501(c)(4), (5), or (6) organizations a Were substantially all dues nondeductible by members?	85a	N/A
b	Did the organization make only in-house lobbying expenditures of \$2,000 or less?	85b	N/A
	If "Yes" was answered to either 85a or 85b, do not complete 85c through 85h below unless the organization received a waiver for proxy tax owed for the prior year.		
c	Dues, assessments, and similar amounts from members	85c	N/A
d	Section 162(e) lobbying and political expenditures	85d	N/A
e	Aggregate nondeductible amount of section 6033(e)(1)(A) dues notices	85e	N/A
f	Taxable amount of lobbying and political expenditures (line 85d less 85e)	85f	N/A
g	Does the organization elect to pay the section 6033(e) tax on the amount on line 85f?	85g	N/A
h	If section 6033(e)(1)(A) dues notices were sent, does the organization agree to add the amount on line 85f to its reasonable estimate of dues allocable to nondeductible lobbying and political expenditures for the following tax year?	85h	N/A
86	501(c)(7) organizations Enter: a Initiation fees and capital contributions included on line 12	86a	N/A
b	Gross receipts, included on line 12, for public use of club facilities	86b	N/A
87	501(c)(12) organizations Enter: a Gross income from members or shareholders	87a	N/A
b	Gross income from other sources. (Do not net amounts due or paid to other sources against amounts due or received from them)	87b	N/A
88 a	At any time during the year, did the organization own a 50% or greater interest in a taxable corporation or partnership, or an entity disregarded as separate from the organization under Regulations sections 301.7701-2 and 301.7701-3? If "Yes," complete Part IX	88a	X
b	At any time during the year, did the organization, directly or indirectly, own a controlled entity within the meaning of section 512(b)(13)? If "Yes," complete Part XI	88b	X
89 a	501(c)(3) organizations Enter: Amount of tax imposed on the organization during the year under: section 4911 ▶ 0., section 4912 ▶ 0., section 4955 ▶ 0.		
b	501(c)(3) and 501(c)(4) organizations Did the organization engage in any section 4958 excess benefit transaction during the year or did it become aware of an excess benefit transaction from a prior year? If "Yes," attach a statement explaining each transaction	89b	X
c	Enter: Amount of tax imposed on the organization managers or disqualified persons during the year under sections 4912, 4955, and 4958 ▶ 0.		
d	Enter: Amount of tax on line 89c, above, reimbursed by the organization ▶ 0.		
e	All organizations. At any time during the tax year, was the organization a party to a prohibited tax shelter transaction?	89e	X
f	All organizations. Did the organization acquire a direct or indirect interest in any applicable insurance contract?	89f	X
g	For supporting organizations and sponsoring organizations maintaining donor advised funds. Did the supporting organization, or a fund maintained by a sponsoring organization, have excess business holdings at any time during the year?	89g	X
90 a	List the states with which a copy of this return is filed ▶ SEE STATEMENT 11	90b	52
b	Number of employees employed in the pay period that includes March 12, 2006 ..		
91 a	The books are in care of ▶ THE ORGANIZATION Telephone no ▶ 703-682-9320		
	Located at ▶ 901 NORTH GLEBE RD, SUITE 900, ARLINGTON, VA ZIP + 4 ▶ 22203		
b	At any time during the calendar year, did the organization have an interest in or a signature or other authority over a financial account in a foreign country (such as a bank account, securities account, or other financial account)? If "Yes," enter the name of the foreign country ▶ N/A	91b	X
	See the instructions for exceptions and filing requirements for Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts.		

Part VI Other Information (continued)

Yes No

c At any time during the calendar year, did the organization maintain an office outside of the United States?

91c

X

If "Yes," enter the name of the foreign country **N/A**

92 Section 4947(a)(1) nonexempt charitable trusts filing Form 990 in lieu of Form 1041- Check here

and enter the amount of tax-exempt interest received or accrued during the tax year

92

N/A

Part VII Analysis of Income-Producing Activities (See the instructions.)

Note: Enter gross amounts unless otherwise indicated

	Unrelated business income		Excluded by section 512, 513, or 514		(E) Related or exempt function income
	(A) Business code	(B) Amount	(C) Exclu- sion code	(D) Amount	
93 Program service revenue					
a ATTORNEY FEES					225,719.
b HONORARIA					5,850.
c MISCELLANEOUS					20,528.
d					
e					
f Medicare/Medicaid payments					
g Fees and contracts from government agencies					
94 Membership dues and assessments					
95 Interest on savings and temporary cash investments			14	306,852.	
96 Dividends and interest from securities					
97 Net rental income or (loss) from real estate:					
a debt-financed property					
b not debt-financed property			01	90,269.	
98 Net rental income or (loss) from personal property					
99 Other investment income					
100 Gain or (loss) from sales of assets other than inventory			18	1,342.	
101 Net income or (loss) from special events					
102 Gross profit or (loss) from sales of inventory					
103 Other revenue					
a					
b					
c					
d					
e					
104 Subtotal (add columns (B), (D), and (E))		0.		398,463.	252,097.
105 Total (add line 104, columns (B), (D), and (E))					650,560.

Note: Line 105 plus line 1e, Part I, should equal the amount on line 12, Part I.

Part VIII Relationship of Activities to the Accomplishment of Exempt Purposes (See the instructions.)

Line No.	Explain how each activity for which income is reported in column (E) of Part VII contributed importantly to the accomplishment of the organization's exempt purposes (other than by providing funds for such purposes)
▼	SEE STATEMENT 12

Part IX Information Regarding Taxable Subsidiaries and Disregarded Entities (See the instructions.)

(A) Name, address, and EIN of corporation, partnership, or disregarded entity	(B) Percentage of ownership interest	(C) Nature of activities	(D) Total income	(E) End-of-year assets
	%			
N/A	%			
	%			
	%			

Part X Information Regarding Transfers Associated with Personal Benefit Contracts (See the instructions.)

(a) Did the organization, during the year, receive any funds, directly or indirectly, to pay premiums on a personal benefit contract?

☐ Yes☒ No

(b) Did the organization, during the year, pay premiums, directly or indirectly, on a personal benefit contract?

☐ Yes☒ No

Note: If "Yes" to (b), file Form 8870 and Form 4720 (see instructions).

Part XI Information Regarding Transfers To and From Controlled Entities. Complete only if the organization is a controlling organization as defined in section 512(b)(13) N/A

106 Did the reporting organization **make** any transfers to a controlled entity as defined in section 512(b)(13) of the Code? If "Yes," complete the schedule below for each controlled entity.

Yes	No
-----	----

	(A) Name, address, of each controlled entity	(B) Employer Identification Number	(C) Description of transfer	(D) Amount of transfer
a	----- ----- -----			
b	----- ----- -----			
c	----- ----- -----			
Totals				

107 Did the reporting organization **receive** any transfers from a controlled entity as defined in section 512(b)(13) of the Code? If "Yes," complete the schedule below for each controlled entity.

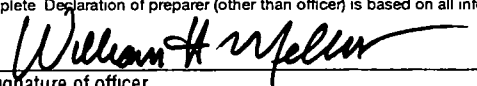
Yes	No
-----	----

	(A) Name, address, of each controlled entity	(B) Employer Identification Number	(C) Description of transfer	(D) Amount of transfer
a	----- ----- -----			
b	----- ----- -----			
c	----- ----- -----			
Totals				


108 Did the organization have a binding written contract in effect on August 17, 2006, covering the interest, rents, royalties, and annuities described in question 107 above?

Yes	No
-----	----

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Please Sign Here:  Date: 1/2/08

Type or print name and title: WILLIAM H. MELLON PRESIDENT & GENERAL COUNSEL

Paid Preparer's Use Only: Preparer's signature:  Date: 12/20/07 Check if self-employed: ☐ Preparer's SSN or PTIN (See Gen. Inst. X):

Firm's name (or yours if self-employed), address, and ZIP + 4: RUBINO & MCGEEHIN, CHARTERED 6903 ROCKLEDGE DRIVE, SUITE 1200 BETHESDA, MD 20817 EIN: Phone no: 301-564-3636

Form 990 (2006)

SCHEDULE A
(Form 990 or 990-EZ)

Department of the Treasury
Internal Revenue Service

Organization Exempt Under Section 501(c)(3)

(Except Private Foundation) and Section 501(e), 501(f), 501(k),
501(n), or 4947(a)(1) Nonexempt Charitable Trust

Supplementary Information-(See separate instructions.)

► **MUST be completed by the above organizations and attached to their Form 990 or 990-EZ**

OMB No 1545-0047

2006

Name of the organization

INSTITUTE FOR JUSTICE

Employer identification number

52 1744337

Part I Compensation of the Five Highest Paid Employees Other Than Officers, Directors, and Trustees

(See page 2 of the instructions. List each one. If there are none, enter "None.")

(a) Name and address of each employee paid more than \$50,000	(b) Title and average hours per week devoted to position	(c) Compensation	(d) Contributions to employee benefit plans & deferred compensation	(e) Expense account and other allowances
JOHN KRAMER 901 NORTH GLEBE RD., ARLINGTON, VA 22	VP FOR COMMUN 40.00	180,667.	34,239.	0.
SCOTT BULLOCK 901 NORTH GLEBE RD., ARLINGTON, VA 22	SR. ATTORNEY 40.00	158,375.	23,485.	0.
DANA BERLINER 901 NORTH GLEBE RD., ARLINGTON, VA 22	SR. ATTORNEY 40.00	151,458.	22,922.	0.
CLARK NEILY 901 NORTH GLEBE RD., ARLINGTON, VA 22	SR. ATTORNEY 40.00	139,375.	23,494.	0.
STEVE SIMPSON 901 NORTH GLEBE RD., ARLINGTON, VA 22	SR. ATTORNEY 40.00	135,535.	28,552.	0.
Total number of other employees paid over \$50,000 ►	22			

Part II-A Compensation of the Five Highest Paid Independent Contractors for Professional Services

(See page 2 of the instructions. List each one (whether individuals or firms). If there are none, enter "None.")

(a) Name and address of each independent contractor paid more than \$50,000	(b) Type of service	(c) Compensation
NONE		
Total number of others receiving over \$50,000 for professional services ►	0	

Part II-B Compensation of the Five Highest Paid Independent Contractors for Other Services

(List each contractor who performed services other than professional services, whether individuals or firms. If there are none, enter "None." See page 2 of the instructions.)

(a) Name and address of each independent contractor paid more than \$50,000	(b) Type of service	(c) Compensation
NONE		
Total number of other contractors receiving over \$50,000 for other services ►	0	

Part III Statements About Activities (See page 2 of the instructions)

Yes No

- 1 During the year, has the organization attempted to influence national, state, or local legislation, including any attempt to influence public opinion on a legislative matter or referendum? If "Yes," enter the total expenses paid or incurred in connection with the lobbying activities ► \$ 71,721. (Must equal amounts on line 38, Part VI-A, or line i of Part VI-B)
VI-A, LINE 38B

1 X

Organizations that made an election under section 501(h) by filing Form 5768 must complete Part VI-A. Other organizations checking "Yes" must complete Part VI-B AND attach a statement giving a detailed description of the lobbying activities

- 2 During the year, has the organization, either directly or indirectly, engaged in any of the following acts with any substantial contributors, trustees, directors, officers, creators, key employees, or members of their families, or with any taxable organization with which any such person is affiliated as an officer, director, trustee, majority owner, or principal beneficiary? (If the answer to any question is "Yes," attach a detailed statement explaining the transactions)

a Sale, exchange, or leasing of property?

2a X

b Lending of money or other extension of credit?

2b X

c Furnishing of goods, services, or facilities?

2c X

d Payment of compensation (or payment or reimbursement of expenses if more than \$1,000)? SEE PART V-A, FORM 990

2d X

e Transfer of any part of its income or assets?

2e X

- 3 a Did the organization make grants for scholarships, fellowships, student loans, etc.? (If "Yes," attach an explanation of how the organization determines that recipients qualify to receive payments)

3a X

b Did the organization have a section 403(b) annuity plan for its employees?

3b X

c Did the organization receive or hold an easement for conservation purposes, including easements to preserve open space, the environment, historic land areas or historic structures? If "Yes," attach a detailed statement

3c X

d Did the organization provide credit counseling, debt management, credit repair, or debt negotiation services?

3d X

- 4 a Did the organization maintain any donor advised funds? If "Yes," complete lines 4b through 4g. If "No," complete lines 4f and 4g

4a X

b Did the organization make any taxable distributions under section 4966?

N/A

4b

c Did the organization make a distribution to a donor, donor advisor, or related person?

N/A

4c

d Enter the total number of donor advised funds owned at the end of the tax year

► N/A

e Enter the aggregate value of assets held in all donor advised funds owned at the end of the tax year

► N/A

f Enter the total number of separate funds or accounts owned at the end of the year (excluding donor advised funds included on line 4d) where donors have the right to provide advice on the distribution or investment of amounts in such funds or accounts

► 0.

g Enter the aggregate value of assets in all funds or accounts included on line 4f at the end of the tax year

► 0.

Part IV Reason for Non-Private Foundation Status (See pages 4 through 7 of the instructions)I certify that the organization is not a private foundation because it is (Please check only **ONE** applicable box.)

- 5 ☐ A church, convention of churches, or association of churches Section 170(b)(1)(A)(i)
- 6 ☐ A school Section 170(b)(1)(A)(ii) (Also complete Part V.)
- 7 ☐ A hospital or a cooperative hospital service organization Section 170(b)(1)(A)(iii)
- 8 ☐ A federal, state, or local government or governmental unit Section 170(b)(1)(A)(v)
- 9 ☐ A medical research organization operated in conjunction with a hospital Section 170(b)(1)(A)(iii) Enter the hospital's name, city, and state **▶**
- 10 ☐ An organization operated for the benefit of a college or university owned or operated by a governmental unit Section 170(b)(1)(A)(iv) (Also complete the **Support Schedule** in Part IV-A.)
- 11a ☒ An organization that normally receives a substantial part of its support from a governmental unit or from the general public Section 170(b)(1)(A)(vi) (Also complete the **Support Schedule** in Part IV-A.)
- 11b ☐ A community trust Section 170(b)(1)(A)(vi) (Also complete the **Support Schedule** in Part IV-A.)
- 12 ☐ An organization that normally receives (1) more than 33 1/3% of its support from contributions, membership fees, and gross receipts from activities related to its charitable, etc., functions - subject to certain exceptions, and (2) no more than 33 1/3% of its support from gross investment income and unrelated business taxable income (less section 511 tax) from businesses acquired by the organization after June 30, 1975 See section 509(a)(2) (Also complete the **Support Schedule** in Part IV-A.)
- 13 ☐ An organization that is not controlled by any disqualified persons (other than foundation managers) and otherwise meets the requirements of section 509(a)(3) Check the box that describes the type of supporting organization:
☐ Type I ☐ Type II ☐ Type III-Functionally Integrated ☐ Type III-Other

Provide the following information about the supported organizations. (See page 7 of the instructions.)

(a) Name(s) of supported organization(s)	(b) Employer identification number (EIN)	(c) Type of organization (described in lines 5 through 12 above or IRC section)	(d) Is the supported organization listed in the supporting organization's governing documents?		(e) Amount of support
			Yes	No	
Total ▶					

- 14 ☐ An organization organized and operated to test for public safety Section 509(a)(4) (See page 7 of the instructions.)

Part IV-A Support Schedule (Complete only if you checked a box on line 10, 11, or 12) **Use cash method of accounting.**
Note: You may use the worksheet in the instructions for converting from the accrual to the cash method of accounting.

Calendar year (or fiscal year beginning in)	(a) 2005	(b) 2004	(c) 2003	(d) 2002	(e) Total
15 Gifts, grants, and contributions received (Do not include unusual grants. See line 28.)	7,458,731.	7,091,693.	6,162,724.	6,028,230.	26,741,378.
16 Membership fees received					
17 Gross receipts from admissions, merchandise sold or services performed, or furnishing of facilities in any activity that is related to the organization's charitable, etc., purpose	51,803.	192,599.	186,826.	141,089.	572,317.
18 Gross income from interest, dividends, amounts received from payments on securities loans (section 512(a)(5)), rents, royalties, and unrelated business taxable income (less section 511 taxes) from businesses acquired by the organization after June 30, 1975	306,816.	223,766.	166,030.	146,340.	842,952.
19 Net income from unrelated business activities not included in line 18					
20 Tax revenues levied for the organization's benefit and either paid to it or expended on its behalf					
21 The value of services or facilities furnished to the organization by a governmental unit without charge. Do not include the value of services or facilities generally furnished to the public without charge.					
22 Other income. Attach a schedule. Do not include gain or (loss) from sale of capital assets.					
23 Total of lines 15 through 22	7,817,350.	7,508,058.	6,515,580.	6,315,659.	28,156,647.
24 Line 23 minus line 17	7,765,547.	7,315,459.	6,328,754.	6,174,570.	27,584,330.
25 Enter 1% of line 23	78,174.	75,081.	65,156.	63,157.	
26 Organizations described on lines 10 or 11: a Enter 2% of amount in column (e), line 24					26a 551,687.
b Prepare a list for your records to show the name of and amount contributed by each person (other than a governmental unit or publicly supported organization) whose total gifts for 2002 through 2005 exceeded the amount shown in line 26a. Do not file this list with your return. Enter the total of all these excess amounts					26b 3,566,784.
c Total support for section 509(a)(1) test. Enter line 24, column (e)					26c 27,584,330.
d Add: Amounts from column (e) for lines 18 842,952. 19 22 3,566,784.					26d 4,409,736.
e Public support (line 26c minus line 26d total)					26e 23,174,594.
f Public support percentage (line 26e (numerator) divided by line 26c (denominator))					26f 84.0136%
27 Organizations described on line 12: a For amounts included in lines 15, 16, and 17 that were received from a "disqualified person," prepare a list for your records to show the name of, and total amounts received in each year from, each "disqualified person." Do not file this list with your return. Enter the sum of such amounts for each year	(2005) N/A	(2004) N/A	(2003) N/A	(2002) N/A	
b For any amount included in line 17 that was received from each person (other than "disqualified persons"), prepare a list for your records to show the name of, and amount received for each year, that was more than the larger of (1) the amount on line 25 for the year or (2) \$5,000. (Include in the list organizations described in lines 5 through 11b, as well as individuals.) Do not file this list with your return. After computing the difference between the amount received and the larger amount described in (1) or (2), enter the sum of these differences (the excess amounts) for each year	(2005) N/A	(2004) N/A	(2003) N/A	(2002) N/A	
c Add: Amounts from column (e) for lines 15 16 17 20 21					27c N/A
d Add: Line 27a total and line 27b total					27d N/A
e Public support (line 27c total minus line 27d total)					27e N/A
f Total support for section 509(a)(2) test. Enter amount on line 23, column (e)					27f N/A
g Public support percentage (line 27e (numerator) divided by line 27f (denominator))					27g N/A %
h Investment income percentage (line 18, column (e) (numerator) divided by line 27f (denominator))					27h N/A %

28 Unusual Grants: For an organization described in line 10, 11, or 12 that received any unusual grants during 2002 through 2005, prepare a list for your records to show, for each year, the name of the contributor, the date and amount of the grant, and a brief description of the nature of the grant. Do not file this list with your return. Do not include these grants in line 15

Part V Private School Questionnaire (See page 9 of the instructions)

N/A

(To be completed ONLY by schools that checked the box on line 6 in Part IV)

	Yes	No
29 Does the organization have a racially nondiscriminatory policy toward students by statement in its charter, bylaws, other governing instrument, or in a resolution of its governing body?		
30 Does the organization include a statement of its racially nondiscriminatory policy toward students in all its brochures, catalogues, and other written communications with the public dealing with student admissions, programs, and scholarships?		
31 Has the organization publicized its racially nondiscriminatory policy through newspaper or broadcast media during the period of solicitation for students, or during the registration period if it has no solicitation program, in a way that makes the policy known to all parts of the general community it serves? If "Yes," please describe, if "No," please explain (If you need more space, attach a separate statement)		
<hr/>		
<hr/>		
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32 Does the organization maintain the following		
a Records indicating the racial composition of the student body, faculty, and administrative staff?		
b Records documenting that scholarships and other financial assistance are awarded on a racially nondiscriminatory basis?		
c Copies of all catalogues, brochures, announcements, and other written communications to the public dealing with student admissions, programs, and scholarships?		
d Copies of all material used by the organization or on its behalf to solicit contributions? If you answered "No" to any of the above, please explain (If you need more space, attach a separate statement)		
<hr/>		
<hr/>		
33 Does the organization discriminate by race in any way with respect to		
a Students' rights or privileges?		
b Admissions policies?		
c Employment of faculty or administrative staff?		
d Scholarships or other financial assistance?		
e Educational policies?		
f Use of facilities?		
g Athletic programs?		
h Other extracurricular activities? If you answered "Yes" to any of the above, please explain (If you need more space, attach a separate statement)		
<hr/>		
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34 a Does the organization receive any financial aid or assistance from a governmental agency?		
b Has the organization's right to such aid ever been revoked or suspended? If you answered "Yes" to either 34a or b, please explain using an attached statement		
35 Does the organization certify that it has complied with the applicable requirements of sections 4 01 through 4 05 of Rev Proc 75-50, 1975-2 C B 587, covering racial nondiscrimination? If "No," attach an explanation		

(To be completed **ONLY** by an eligible organization that filed Form 5768)

Check **a** ☐ if the organization belongs to an affiliated group

Check **b** ☐ if you checked "a" and "limited control" provisions apply

(The term "expenditures" means amounts paid or incurred)

(a)
Affiliated group
totals

(b)
To be completed for all
electing organizations

N/A

36	Total lobbying expenditures to influence public opinion (grassroots lobbying)	36	15,762.												
37	Total lobbying expenditures to influence a legislative body (direct lobbying)	37	55,959.												
38	Total lobbying expenditures (add lines 36 and 37)	38	71,721.												
39	Other exempt purpose expenditures	39	8,610,064.												
40	Total exempt purpose expenditures (add lines 38 and 39)	40	8,681,785.												
41	Lobbying nontaxable amount Enter the amount from the following table -														
	<table border="0"> <tr> <td>If the amount on line 40 is -</td><td>The lobbying nontaxable amount is -</td></tr> <tr> <td>Not over \$500,000</td><td>20% of the amount on line 40</td></tr> <tr> <td>Over \$500,000 but not over \$1,000,000</td><td>\$100,000 plus 15% of the excess over \$500,000</td></tr> <tr> <td>Over \$1,000,000 but not over \$1,500,000</td><td>\$175,000 plus 10% of the excess over \$1,000,000</td></tr> <tr> <td>Over \$1,500,000 but not over \$17,000,000</td><td>\$225,000 plus 5% of the excess over \$1,500,000</td></tr> <tr> <td>Over \$17,000,000</td><td>\$1,000,000</td></tr> </table>	If the amount on line 40 is -	The lobbying nontaxable amount is -	Not over \$500,000	20% of the amount on line 40	Over \$500,000 but not over \$1,000,000	\$100,000 plus 15% of the excess over \$500,000	Over \$1,000,000 but not over \$1,500,000	\$175,000 plus 10% of the excess over \$1,000,000	Over \$1,500,000 but not over \$17,000,000	\$225,000 plus 5% of the excess over \$1,500,000	Over \$17,000,000	\$1,000,000	41	584,089.
If the amount on line 40 is -	The lobbying nontaxable amount is -														
Not over \$500,000	20% of the amount on line 40														
Over \$500,000 but not over \$1,000,000	\$100,000 plus 15% of the excess over \$500,000														
Over \$1,000,000 but not over \$1,500,000	\$175,000 plus 10% of the excess over \$1,000,000														
Over \$1,500,000 but not over \$17,000,000	\$225,000 plus 5% of the excess over \$1,500,000														
Over \$17,000,000	\$1,000,000														
42	Grassroots nontaxable amount (enter 25% of line 41)	42	146,022.												
43	Subtract line 42 from line 36 Enter -0- if line 42 is more than line 36	43	0.												
44	Subtract line 41 from line 38 Enter -0- if line 41 is more than line 38	44	0.												

Caution If there is an amount on either line 43 or line 44, you must file Form 4720.

(Some organizations that made a section 501(h) election do not have to complete all of the five columns below. See the instructions for lines 45 through 50 on page 13 of the instructions.)

	Lobbying Expenditures During 4-Year Averaging Period				
Calendar year (or fiscal year beginning in) ►	(a) 2006	(b) 2005	(c) 2004	(d) 2003	(e) Total
45 Lobbying nontaxable amount	584,089.	496,183.	451,663.	433,773.	1,965,708.
46 Lobbying ceiling amount (150% of line 45(e))					2,948,562.
47 Total lobbying expenditures	71,721.	167,032.	18,399.	99,660.	356,812.
48 Grassroots nontaxable amount	146,022.	124,046.	112,916.	108,443.	491,427.
49 Grassroots ceiling amount (150% of line 48(e))					737,141.
50 Grassroots lobbying expenditures	15,762.	53,058.	18,399.	99,660.	186,879.

(For reporting only by organizations that did not complete Part VI-A) (See page 13 of the instructions.)

N/A

During the year, did the organization attempt to influence national, state or local legislation, including any attempt to influence public opinion on a legislative matter or referendum, through the use of

- a Volunteers
- b Paid staff or management (Include compensation in expenses reported on lines c through h.)
- c Media advertisements
- d Mailings to members, legislators, or the public
- e Publications, or published or broadcast statements
- f Grants to other organizations for lobbying purposes
- g Direct contact with legislators, their staffs, government officials, or a legislative body
- h Rallies, demonstrations, seminars, conventions, speeches, lectures, or any other means
- i Total lobbying expenditures (Add lines c through h.)

[illegible]

If "Yes" to any of the above, also attach a statement giving a detailed description of the lobbying activities

FORM 990

RENTAL INCOME

STATEMENT 1

KIND AND LOCATION OF PROPERTY	ACTIVITY NUMBER	GROSS RENTAL INCOME
SUBLEASE INCOME-MAIN OFFICE	1	90,269.
TOTAL TO FORM 990, PART I, LINE 6A		90,269.

FORM 990	GAIN (LOSS) FROM NON-PUBLICLY TRADED SECURITIES	STATEMENT	2
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DESCRIPTION	DATE ACQUIRED	DATE SOLD	METHOD ACQUIRED	
GAIN FROM PUBLICLY TRADED SECURITIES			PURCHASED	
NAME OF BUYER	GROSS SALES PRICE	COST OR OTHER BASIS	EXPENSE OF SALE	NET GAIN OR (LOSS)
	1,261,998.	1,260,656.	0.	1,342.
TOTAL TO FM 990, PART I, LN 8	1,261,998.	1,260,656.	0.	1,342.

FORM 990	OTHER CHANGES IN NET ASSETS OR FUND BALANCES	STATEMENT	3
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DESCRIPTION	AMOUNT
NET UNREALIZED INVESTMENT GAINS	2,328,000.
UNRESTRICTED NET ASSET RECLASSIFICATION	-29,982.
TOTAL TO FORM 990, PART I, LINE 20	2,298,018.

FORM 990	OTHER EXPENSES	STATEMENT	4
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DESCRIPTION	(A) TOTAL	(B) PROGRAM SERVICES	(C) MANAGEMENT AND GENERAL	(D) FUNDRAISING
COURT FEES	19,487.	19,487.		
INDEPENDENT CONTRACTORS	457,727.	364,108.	59,444.	34,175.
BOOKS & SUBSCRIPTIONS	33,093.	26,646.	2,601.	3,846.
INSURANCE	77,857.	67,694.	8,844.	1,319.
MAILING LIST RENTAL	68,364.	5,855.		62,509.
TRANSCRIPTS AND COURT REPORTERS	48,833.	48,833.		
MEDIA RELATIONS	37,290.	37,290.		
ADVERTISING	18,825.	17,847.	978.	
MISCELLANEOUS	51,710.		50,948.	762.
PROFESSIONAL DUES/CLE FEES	33,344.	28,360.	530.	4,454.
LEGAL RESEARCH TOOL	136,718.	136,718.		
TOTAL TO FM 990, LN 43	983,248.	752,838.	123,345.	107,065.

FORM 990	STATEMENT OF ORGANIZATION'S PRIMARY EXEMPT PURPOSE PART III	STATEMENT	5
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EXPLANATION

TO ADVANCE A RULE OF LAW IN WHICH INDIVIDUALS CAN CONTROL THEIR DESTINIES AS FREE AND RESPONSIBLE MEMBERS OF SOCIETY THROUGH STRATEGIC LITIGATION, TRAINING, COMMUNICATION AND OUTREACH, AND TO TRAIN LAW STUDENTS, LAWYERS AND POLICY ACTIVISTS IN THE TACTICS OF PUBLIC INTEREST LITIGATION. THROUGH THESE ACTIVITIES IJ CHALLENGES THE IDEOLOGY OF THE WELFARE STATE AND ILLUSTRATES AND EXTENDS THE BENEFITS OF FREEDOM TO THOSE WHOSE FULL ENJOYMENT OF LIBERTY IS DENIED BY THE GOVERNMENT.

FORM 990	DEPRECIATION OF ASSETS NOT HELD FOR INVESTMENT	STATEMENT	6
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DESCRIPTION	COST OR OTHER BASIS	ACCUMULATED DEPRECIATION	BOOK VALUE
FURNITURE AND EQUIPMENT	728,799.	279,013.	449,786.
COMPUTERS AND SOFTWARE	443,889.	170,507.	273,382.
LEASEHOLD IMPROVEMENTS	824,437.	325,514.	498,923.
TOTAL TO FORM 990, PART IV, LN 57	1,997,125.	775,034.	1,222,091.

FORM 990	OTHER LIABILITIES	STATEMENT	7
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DESCRIPTION	AMOUNT
DEFERRED RENT	113,760.
CAPITAL LEASE LIABILITY	50,530.
TOTAL TO FORM 990, PART IV, LINE 65, COLUMN B	164,290.

FORM 990

NON-GOVERNMENT SECURITIES

STATEMENT 8

SECURITY DESCRIPTION	COST/FMV	CORPORATE STOCKS	CORPORATE BONDS	OTHER PUBLICLY TRADED SECURITIES	TOTAL NON-GOV'T SECURITIES
CITIGROUP - MONEY	FMV				
MARKET FUNDS				89,462.	89,462.
RESERVE FUND	FMV				
VANGUARD TSM				8,631,179.	8,631,179.
RESERVE FUND	FMV				
VANGUARD GLOBAL				4,931,511.	4,931,511.
RESERVE FUND	FMV				
VANGUARD MONEY					
MARKET				516,557.	516,557.
RESERVE FUND	FMV				
VANGUARD SHORT-TERM					
BO				535,396.	535,396.
AMERITRADE - MONEY	FMV				
MARKET FUNDS				5,724.	5,724.
VANGUARD CGA FUND	FMV			102,002.	102,002.
TO FORM 990, LINE 54A, COL B				14811831.	14811831.

FORM 990 PART V-A - LIST OF CURRENT OFFICERS, DIRECTORS, STATEMENT 9
TRUSTEES AND KEY EMPLOYEES

NAME AND ADDRESS	TITLE AND AVRG HRS/WK	COMPEN- SATION	EMPLOYEE BEN PLAN CONTRIB	EXPENSE ACCOUNT
WILLIAM H. MELLOR 901 NORTH GLEBE RD. ARLINGTON VA 22203	PRESIDENT & GENERAL COUNSEL 40.00	380,453.	55,821.	0.
DEBORAH SIMPSON 901 NORTH GLEBE RD. ARLINGTON VA 22203	MANAGING DIRECTOR/SECRETARY 40.00	141,308.	16,864.	0.
BRIAN MONTGOMERY 901 NORTH GLEBE RD. ARLINGTON VA 22203	CHIEF FINANCIAL OFFICER/TREASUR 40.00	117,459.	18,191.	0.
DAVID B. KENNEDY 901 NORTH GLEBE RD. ARLINGTON VA 22203	CHAIRMAN 1.00	0.	0.	0.
ROBERT A. LEVY 901 NORTH GLEBE RD. ARLINGTON VA 22203	MEMBER 1.00	0.	0.	0.
JAMES LINTOTT 901 NORTH GLEBE RD. ARLINGTON VA 22203	MEMBER 1.00	0.	0.	0.
ABIGAIL THERNSTROM 901 NORTH GLEBE RD. ARLINGTON VA 22203	MEMBER 1.00	0.	0.	0.
GERRIT H. WORMHOUDT 901 NORTH GLEBE RD. ARLINGTON VA 22203	MEMBER 1.00	0.	0.	0.
ARTHUR DANTCHIK 901 NORTH GLEBE RD. ARLINGTON VA 22203	MEMBER 1.00	0.	0.	0.
MARK BABUNOVIC 901 NORTH GLEBE RD. ARLINGTON VA 22203	MEMBER 1.00	0.	0.	0.
STEPHEN W. MODZELEWSKI 901 NORTH GLEBE RD. ARLINGTON VA 22203	MEMBER 1.00	0.	0.	0.
TOTALS INCLUDED ON FORM 990, PART V-A		639,220.	90,876.	0.

FORM 990	EXPLANATION OF RELATIONSHIP PART V-A, LINE 75B	STATEMENT 10
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<u>INDIVIDUAL'S NAME</u>	<u>TITLE OR ROLE</u>
DEBORAH SIMPSON	MANAGING DIRECTOR/SECRETRY

<u>INDIVIDUAL'S NAME</u>	<u>TITLE OR ROLE</u>
STEVE SIMPSON	SR. ATTORNEY

EXPLANATION OF RELATIONSHIP
HUSBAND AND WIFE.

FORM 990	LIST OF STATES RECEIVING COPY OF RETURN PART VI, LINE 90	STATEMENT 11
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STATES
AL, AK, AZ, CO, CT, DC, FL, KS, KY, ME, MD, MA, MI, MN, MS, NH, NJ, NM, NC, ND, OH, OK, OR, PA, RI
IN, UT, WA, WV, WI, NY, SC, VA, IL, MO

FORM 990	PART VIII - RELATIONSHIP OF ACTIVITIES TO ACCOMPLISHMENT OF EXEMPT PURPOSES	STATEMENT 12
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<u>LINE</u>	<u>EXPLANATION OF RELATIONSHIP OF ACTIVITIES</u>
93A	ATTORNEY FEES ARE ACCEPTED WHEN AN AMOUNT IS AWARDED BY THE COURT AND BY THE OPPOSING PARTY OR WHEN AN AMOUNT IS AWARDED BY STATUE.
93B	SPEECHES PERTAINING TO THE INSTITUTE'S EXEMPT PURPOSE BY PROVIDING A MEANS OF EDUCATING THE PUBLIC.
93C	MISCELLANEOUS INCOME DIRECTLY RELATED TO THE INSTITUTE'S EXEMPT PURPOSE BY PROVIDING A MEANS TO PROTECT THE CONSTITUTIONAL RIGHTS OF CLIENTS.

INSTITUTE FOR JUSTICE - CASE UPDATE

June 2007

EDUCATION

Anderson, et al. v. Durham, et al.

In 2002, the Institute for Justice filed a lawsuit challenging Maine's exclusion of religious schools from its school choice program. This program allows parents in school districts that do not operate public schools to send their children to other districts' public schools, using tuition money from their home school district. In 1981, Maine eliminated the participation of religious schools in this program, on the claim that the Federal Establishment Clause required their exclusion. The state continued to exclude religious schools even after the U.S. Supreme Court ruled in 2002 that voucher programs are not a violation of the Establishment Clause. IJ represented eight Maine families and argued that the Supreme Court's decision makes clear that the Establishment Clause would not be violated by the inclusion of religious choices in Maine's program and that the continued exclusion of those choices violated our clients' federal constitutional rights. After the Maine Supreme Court ruled against our clients in April of 2006, we filed a *cert.* petition with the U.S. Supreme Court in July of 2006. Three amicus briefs were filed supporting our petition: one from a coalition of school choice advocacy organizations, one from the Governor and State Board of Education of Florida, and one from the states of Texas and Alabama. However, the Court denied our petition.

Cain v. Horne

This year, the Institute for Justice successfully intervened on behalf of five families, when the Arizona Education Association, the ACLU of Arizona, the People for the American Way, three Arizona Taxpayers, and five other education groups, including the Arizona School Boards Association and the PTA, filed a lawsuit in the Maricopa County Superior Court challenging Arizona's new voucher programs for children with disabilities and children in foster care. The Institute fought back, arguing that the programs are constitutional and that school choice benefits children and parents, not schools—religious or otherwise. After the Supreme Court's rebuff, our opponents filed a new lawsuit in lower court. The judge in that case ruled in our favor, but the plaintiffs have promised an appeal, which the Institute will meet head on.

Green v. Garriott

The ACLU of Arizona, along with the Arizona School Boards Association, and the Arizona Center for Law in the Public Interest filed a legal challenge in September 2006 to Arizona's new corporate tuition tax credit under the state Constitution's Blaine Amendment—despite the fact that the Arizona Supreme Court rejected a nearly identical challenge to the state's individual scholarship tax credit program in 1999. IJ successfully intervened, protecting the educational opportunity that was created by the expansion of Arizona's successful tax credit program to include corporate donations to non-profit organizations that provide private-school scholarships for low- and middle-income families. The Honorable Thomas A. Zlaket, former

Chief Justice of the Arizona Supreme Court and author of the 1999 decision, joined the Institute in our defense of the scholarship and tax credit program. The court almost immediately dismissed our opponents' challenge, but they have appealed that decision.

Winn v. Garriott

The Institute for Justice is currently in court, defending Arizona's individual tax credit on behalf of parents and children and one tuition granting organization: The Arizona School Choice Trust. In March 2005, the U.S. District Court for the District of Arizona granted IJ's motion to dismiss this collateral attack filed by the ACLU against Arizona's scholarship tuition tax credit. IJ's motion argued that (1) the ACLU taxpayer plaintiffs lack standing to bring this challenge; (2) *res judicata* bars this litigation because the same issues were fully litigated in the state supreme court; and (3) under the U.S. Supreme Court's decision in *Zelman* the plaintiffs fail to state a legally cognizable claim. The District Court dismissed the case and also granted the Arizona Christian School Tuition Organization's motion to intervene. The ACLU appealed the decision to the Ninth U.S. Circuit Court of Appeals in April 2005. As of June 30 2007, IJ is still waiting to hear from the Ninth Circuit about an oral argument date.

FIRST AMENDMENT

Association of American Physicians and Surgeons et. al. v. Brewer et. al.

On May 10, the Ninth Circuit issued its opinion, dismissing our case that challenged Arizona's "Clean Elections Act," an act that punishes candidates who choose not to accept taxpayer-funded campaigns, as moot. IJ filed May 24 request for an en banc re-hearing and the Ninth Circuit ordered the Defendants to file responsive briefs. The State, in its response, conceded that Plaintiff Dean Martin's claims should not have been declared moot. As of June 30, the petition for en banc review was still pending. This act required these privately funded candidates to fill out 34 special reports not required of government-funded candidates, lowers the maximum contribution limit for privately supported candidates (making contribution harder to raise), and gives taxpayer dollars to government-funded candidates to match any support privately funded candidates are able to raise. The Institute for Justice is committed to preserving the right of individuals to support a privately funded candidate without having their voice drowned out by the government, which will hand a public dollar to the candidate they oppose for every dollar they give to the candidate they support.

Ballen, et al. v. City of Redmond, et al.

This case was a challenge to the city of Redmond, Washington's ban on portable signs containing certain kinds of commercial speech. The Institute for Justice's Washington Chapter represented Dennis Ballen, the owner of Blazing Bagels. Ballen has an employee stand on the corner of a busy nearby street with a sign that says "Fresh Bagels – Now Open" and a detachable arrow directing customers to the store. In June 2003, the city of Redmond issued a cease and desist letter to Ballen informing him that his sign holder violated the city's prohibition against portable signs, discriminating against Ballen's signs solely based upon their content, since the city permits signs advertising real estate, promoting political messages, and announcing

celebrations. In September 2006, the Ninth U.S. Circuit Court of Appeals ruled unanimously that the city's law was unconstitutional. The city did not appeal, so the case is over. This decision vindicates the principle that commercial speech, central to a free-market economy, should not be treated as a second-class activity under the First Amendment.

Epoch Design, LLC (d/b/a Futon Factory), et al. v. City of Lynnwood

This case challenges the city of Lynnwood's ban on portable signs containing certain kinds of commercial and non-commercial speech. The Institute for Justice represents the owners of the Futon Factory, a small chain of family owned stores in the Puget Sound area. On weekends, the owners of the store employed a person to stand on a near-by street with various signs advertising the Futon Factory. Claiming that the signs were a violation of the Lynnwood Municipal Code, the city ordered Futon Factory to stop its advertising. In July of 2004, IJ filed a civil rights complaint on behalf of the store's owners. The county superior court strongly urged the city to refrain from enforcing its ordinances and both parties have informally agreed to hold the case in abeyance while awaiting a decision in *Ballen*. In light of our victory there, the parties are attempting to resolve this case.

Independence Institute v. Coffman

This is a First Amendment challenge to campaign finance laws as they apply to ballot initiative campaigns in Colorado. In the spring of 2005, the Colorado legislature referred two tax initiatives to the November ballot. The non-profit Independence Institute, long an adversary of high taxes and government spending, immediately began criticizing the initiatives on the grounds that they would raise taxes, increase spending, and generally limit Colorado's Taxpayer Bill of Rights. After I.I. ran a series of radio ads criticizing the initiatives—but not telling voters which way to vote—Richard Evans, a Colorado citizen and proponent of the initiatives, filed an administrative complaint against I.I. before the Secretary of State claiming that I.I.'s criticism violated Colorado's campaign finance laws. Evans contended that I.I. was an "issue committee," which must periodically disclose all expenditures, contributions, and the identities of all contributors, under the law and had failed to disclose its contributions and expenditures, including all of its contributor names and addresses. Colorado's campaign finance laws define "issue committee" as any group of two or more persons that has "a major purpose" of supporting or opposing a ballot initiative and spends at least \$200 toward that end. In May, the trial court issued an order on cross motions for summary judgment denying all of our claims and granting summary judgment to the state. The court denied our claim that the registration and disclosure rules were unconstitutionally burdensome on standing grounds, and our anonymous speech and association claim on the ground that I.I. presented insufficient evidence of harassment or intimidation of contributors. We appealed the case to the Colorado Court of Appeals and we expect to file our initial briefs in the appeal in October.

Pagan v. Fruchey, et al.

Chris Pagan lives in Glendale, Ohio, and practices law in nearby Middleton. In the summer of 2003, he accepted a 1970 Mercury Cougar from a client in lieu of fees. He decided to put the car up for sale by doing what people have always done: he put a "for sale" sign in the window. Because his driveway is obscured, he parked his car on the public street directly in

front of his home. Soon thereafter, a police officer told him that it was illegal to put a “for sale” sign in the window of his car while it is parked on a public street. When Pagan sued the city in federal court for his free speech rights, Glendale argued that it bans “for sale” signs from the windows of parked cars because they tempt people to walk into traffic while inspecting the vehicle up for sale. However, the only evidence Glendale submitted to support this concern was the unsubstantiated conjecture of the local chief of police that “for sale” signs are a danger to the public. Glendale did not file any studies or any anecdotal evidence from its own streets or other jurisdictions that “for sale” signs are in fact dangerous. Yet, despite the absence of any evidence that “for sale” signs are a genuine problem, the district court upheld the ban. A sharply divided panel of the Sixth U.S. Circuit Court of Appeals upheld this conclusion. The dissenting judge argued that free speech is an area of special concern and governments must affirmatively prove that their restrictions on speech are necessary because there is a real—as opposed to merely hypothetical—danger to the public. In June of last year, the Institute for Justice took over the case, and filed a petition for rehearing before the full Sixth Circuit. We believed the dissent was correct, and rehearing *en banc* was the only way for the Sixth Circuit to overrule an incorrect prior decision by a three-judge panel. It is an extraordinary remedy rarely granted by the Court. Fortunately, on September 6, 2006, the Sixth Circuit granted rehearing, and on June 29, 2007, the Court ruled in favor of our client in a narrow 8-7 decision, reversing the decisions of the trial court and the original three-judge panel. The majority held that Glendale failed to produce evidence that its speech regulation addressed a real, as opposed to hypothetical, harm to the community. The Court emphasized that the First Amendment imposes a significant burden on the government, even in the commercial speech context, that cannot be discharged by conclusory or speculative evidence.

Salib v. City of Mesa

The Arizona Court of Appeals issued its opinion on May 4, 2006, upholding the challenged city of Mesa sign ordinance that prohibits businesses in the downtown redevelopment area from covering more than 30 percent of their windows with signage. We filed a motion to vacate the opinion on the grounds that the case was moot, which was denied, thus ending the case.

Sampson v. Coffman

With this case, the Institute for Justice has challenged Colorado’s ballot issue campaign finance laws on behalf of six residents of a neighborhood outside Denver who were sued after opposing the annexation of their neighborhood into the nearby town. Our clients reside in Parker North, Colorado, a subdivision of about 300 homes outside of the town of Parker. In February 2006, they learned of efforts by others in the neighborhood to annex it into the town. They opposed those efforts over the next few months by talking to neighbors, printing up flyers, and creating No Annexation lawn signs. In response, the proponents of annexation sued our clients claiming they violated Colorado’s campaign finance laws by failing to register as an issue committee and disclose their contributions and expenditures. IJ defended the clients in the ensuing administrative proceeding, which ended after the parties entered into a voluntary stipulation of dismissal. In September of 2006, IJ filed suit against the Colorado Secretary of State, challenging three aspects of the campaign finance laws as they apply to ballot issues. The

case is currently in discovery and motions for summary judgment are expected to be filed in late November 2007.

San Juan County et al. v. No New Gas Tax et al.

The Institute for Justice interceded in Washington state in a case on behalf of an initiative campaign, Yes on I-912, defending their right to speak about an initiative that would affect their community without being penalized by the state's campaign finance laws. The campaign was targeted in a lawsuit alleging that the positive on-air comments of local talk-radio hosts should have been reported by the campaign as "in-kind" contributions to the initiative—the same as printing services, equipment, or other non-monetary donations to a political cause. We stressed the chilling effect that the court's treatment of political discussion as a reportable campaign contribution would have on the campaign and the press, particularly in light of a \$5,000 limit on contributions in the three weeks preceding the general election. This would effectively prevent broadcasters from speaking, since \$5,000 could conceivably be only a few minutes of airtime. This suit was an effort by politically motivated prosecutors who opposed the initiative to harass and intimidate their political rivals. This past April, the Washington Supreme Court unanimously reversed the trial court, holding that the talk radio hosts' discussions of the initiative were not "contributions" under Washington's campaign finance law. Shortly after, the municipalities filed a motion for reconsideration in the Supreme Court. We filed an answer to that motion and are currently awaiting resolution of the motion for reconsideration.

Skynet Corporation d/b/a ZeroBrokerFees.com v. Slattery, et al.

New Hampshire's Real Estate Practice Act requires Internet and print advertising companies to obtain a real estate broker's license as a condition of listing or advertising New Hampshire properties for sale. On behalf of ZeroBrokerFees.com, an online advertiser from Massachusetts, IJ filed a federal challenge during the summer of 2006, based on the principle that Internet companies should be entitled to the same freedom of speech as more traditional businesses. In New Hampshire, companies like ZeroBrokerFees.com, unlike newspapers or other general circulation publications, are forced to become licensed real estate brokers in order to do business. This arbitrary discrimination hurts business and attacks the free flow of information that is so vital to American prosperity. In June, the Commission ruled that ZeroBrokerFees.com does not need a real estate broker's license to operate. However, the Commission's ruling gets several facts wrong and is not binding on the Commission, so IJ was unable to resolve the case with the defendants voluntarily. As a result, both sides have filed motions for summary judgment, which should be fully briefed by early September.

Amicus Briefs

- Arizona Together v. Brewer
- Hazell v. Bradbury
- Lassa v. Rongstad
- Rickert v. Public Disclosure Commission
- State ex rel. Washington State Public Disclosure Commission v. Washington Education Association

- Sole v. Wyner
- Tennessee Secondary School Athletic Ass'n v. Brentwood Academy

ECONOMIC LIBERTY

Brown, et al. v. Hovatter, et al.

In 2006, we filed suit against the members of Maryland's State Board of Morticians, challenging a state law that requires owners of funeral homes to be fully licensed morticians and forbids any corporation (other than 58 specially "grandfathered" corporations) from owning a funeral home. The state quickly moved to dismiss the case, but the judge denied that motion last fall in a thoughtful, well-reasoned decision. Both sides submitted cross-motions for summary judgment on April 24, 2007, and all briefing was completed in early June. We are now awaiting a decision.

Byrum, et al. v. Landreth, et al.

In May, the Institute for Justice filed our second challenge to an interior design "title act." In Texas, anyone may practice interior design, but only people with a state-issued license may actually use the terms "interior design" or "interior designer" to describe what they do. Notably, efforts to transform Texas' title act into a full-blown practice act were underway at the time we filed our lawsuit, and one of our goals in filing the lawsuit was to help resist that effort. That goal was achieved, as the proposed practice act was not passed. The parties have filed cross-motions for summary judgment and briefing was recently completed. We are awaiting a ruling from the court, either granting one party's summary judgment motion or denying both motions and directing that the parties commence discovery.

Dahlen Sign Co., et al v. City of Minneapolis, et al.

In 2006, the Institute for Justice Minnesota Chapter filed suit against the city of Minneapolis on behalf of entrepreneurs who want to make a living installing or hanging simple, non-illuminated signs. Minneapolis agreed to a Consent Judgment, which furnishes the entire remedy sought by our clients. Specifically, the city agreed: 1) to be affirmatively enjoined from issue sign hanger's licenses to any applicant who fills out a form, pays a fee, and provides proof of bonding and insurance within five (5) days of submission; 2) to be enjoined from requiring applicants to obtain the approval of five different city departments before the issuance of a license; and 3) to be enjoined from imposing "competency testing" on applicants. The case is now closed.

Franzoy, et al v. Templeman, et al.

The Institute for Justice filed suit in Albuquerque in 2006 against the members of the New Mexico Interior Design Board, challenging the state's interior design "title act." We challenged New Mexico's law on First Amendment grounds, and the defendants acknowledged that the title law violates the First Amendment and sought our agreement to a temporary injunction against enforcement of the law for the duration of the 2007 legislative session.

However, in the first week of April, Governor Richardson signed into law a change that now restricts access to only the title “licensed interior designer”—thus under the new law only those who are licensed by the state may say they are licensed by the state. This moots our First Amendment claims, and thus is a victory. The law goes into effect on July 1, 2007, and we will then work with opposing counsel to dismiss the case and address the issue of attorney fees and costs.

Johnson v. Minnesota Board of Veterinary Medicine

In 2006, IJ sued the Minnesota Board of Veterinary Medicine (MBVM) on behalf of an entrepreneur who wants to make a living filing-down horse’s teeth. IJ-Minnesota represents Chris Johnson, a third-generation horse teeth filer. Chris’ father taught Chris the trade for approximately six months, during which time Chris filed the teeth of 150 horses without incident. Chris then stopped floating teeth after the Board sent a cease and desist letter. We are raising a trio of 14th Amendment claims and their state constitutional counterparts against the state statutes. In holding to their position that teeth floating is the practice of veterinary medicine, the board is unfazed by the fact that riskier procedures requiring more skill, such as castration and dehorning, are not the practice of veterinary medicine. Fortunately, local courts have interpreted the state constitution as having a rational-basis test that offers greater protection of economic liberty than the federal constitution. On June 13, the Institute for Justice and the state of Minnesota moved for summary judgment in this case. The Court is expected to rule on the cross-motions for summary judgment before the end of 2007.

McAferly v. City of Seattle, et al.

In 2006, the Seattle City Council amended its Bed & Breakfast ordinance to eliminate the ban on exterior alterations and expressly allow alterations consistent with the development standards of the underlying neighborhood. In that light, the Institute for Justice and the city negotiated a settlement that resulted in the dismissal of the Notice of Violation that had been issued against the McAfertys back in 2005. With the settlement finalized, we formally dismissed our lawsuit in February 2007.

Meadows v. Odom

In August 2006, the Fifth U.S. Circuit Court of Appeals found the case moot because two of our clients fled the state in the wake of Hurricane Katrina and the other retired. In dismissing the case, the Fifth Circuit vacated the lower court’s decision.

Nautical Tours

We teamed up with entrepreneur Erroll Tyler to fight City Hall in Cambridge, Massachusetts. Though the only legitimate purpose of government licensing is to protect public health and safety, in the Cambridge transportation industry regulation goes well beyond what would serve the best interests of the public. As a result, Erroll is required not only to satisfy safety criteria, but also to prove that his nautical tour venture also serves “public convenience and necessity”—that is, government bureaucrats, not consumers, decide if a community “needs”

a new enterprise. This standard is so arbitrary and hostile to honest entrepreneurship that determined citizens are routinely prevented from pursuing their dreams, and costs to consumers are driven up by a government-enforced lack of competition. Erroll received his jitney license to operate in Cambridge on June 1. However, we were recently informed that the city of Boston is likely to prevent Erroll from conducting his tours because he does not hold a sightseeing license that the city candidly told IJ it has no intention of granting. We will continue to stand with Erroll until his rights to economic liberty and personal freedom prevail, and until the courts take seriously government abuse of regulations such as these.

Paul's Industrial Garage v. City of Red Wing

Paul Larson and Dale Gibson are trash haulers who engage in interstate commerce. In 2006, the city of Red Wing, Minnesota changed its ordinance to require all haulers to deliver all commercial and industrial trash to its municipal incinerator. The city's incinerator charges a tipping fee that is higher than the landfill in Eau Claire, Wisconsin, to which IJ's clients currently haul non-recyclable trash. We sued the city on behalf of Larson and Gibson claiming the city's "flow-control" violates the dormant Commerce Clause. In December, at IJ's request, a federal judge issued a temporary injunction that stopped the city from enforcing all or any part of its plan that prohibits IJ's clients from collecting and hauling trash that is generated in Red Wing to out-of-state facilities for processing, recycling and/or disposal. That decision was not appealed by the defendants. This March, the city changed its ordinance to allow for the free interstate movement of trash but replaced the required high tipping fee with a lower tipping fee and a tax based on the volume of garbage produced by residents and local businesses. Our clients were pleased by this change because the new ordinance allows the clients to continue to serve their customers and engage in interstate commerce, and both applied for licenses. On April 30, however, the U.S. Supreme Court ruled in *United Haulers v. Oneida-Herkimer Counties* (NY) that a municipality may facially discriminate against the interstate movement of trash to support a wholly-owned government trash facility. In light of the city changing its law and the Supreme Court's holding in *Oneida*, the parties dismissed the remaining claims without prejudice and closed the case.

Pinal County v. Dale Bell d.b.a San Tan Flat

Dale Bell opened his restaurant, San Tan Flat, in 2005 in Pinal County, just outside the town limits of Queen Creek, Arizona. Surrounded by buildings, the middle area of the restaurant is open air with tables, small campfires, a stage for live music, and a small area that customers occasionally use for dancing. Having jumped through the various planning and zoning hoops, and having brought skeptical neighbors into supporting the new restaurants, Dale was on his way toward his dream: building a restaurant he could turn over to his son as a legacy when his son turns 18. Since the restaurant opened, however, Dale has faced ongoing harassment from the county, the worst example of which is the subject of our involvement in this case. In 2006, the county cited Dale for violating a county zoning ordinance requiring dance halls to be run in completely enclosed structures—essentially, the county is arguing that because Dale allows patrons to dance, the character of his business is changed from a restaurant to a dance hall, which cannot be run outdoors. The Pinal County Board of Supervisors ruled against Dale on his administrative appeal, as well as on his request for a stay of fines. In June 2007, we brought

several constitutional claims for economic liberty violations, in addition to the straightforward review of the Board's statutory interpretation. As of June 30, 2007, we are awaiting the county's responses to those Motions as well as its answer.

Rissmiller v. Structural Pest Control Commission

The Institute for Justice Arizona Chapter filed suit in 2005 challenging the Structural Pest Control Commission's (SPCC) licensing requirements on behalf of two gentlemen who provide gardening/landscape maintenance services in Tucson. Specifically, our suit challenges the "qualifying party" requirement for gardeners and landscapers who want to engage in incidental weed control using over the counter products. The Arizona Legislature passed and the Governor signed a bill that exempts gardeners and landscape maintenance workers like our clients from the SPCC's licensing requirements, if they meet certain conditions (such as using small sprayers and following the label instructions). Once the law went into effect in September 2006, we filed a voluntary dismissal of the lawsuit.

Summer's Best Two Weeks v. Dept. of Conservation and Natural Resources, et al.

In 2006 we filed suit in the Pennsylvania Commonwealth Court against the Pennsylvania Department of Conservation and Natural Resources, the director of the Bureau of State Parks, and the Superintendent of Ohiopyle State Park, challenging the Department's arbitrary decision to revoke a non-profit summer camp's explicit, written permission to raft as a private boater on the Lower Youghiogheny River. For more than 30 accident-free years the camp had been pursuing its annual trips just like any other private boaters would be allowed to do, but the Department began to demand that the camp must use one of Ohiopyle State Park's licensed commercial outfitters rather than lead its own trips according to its custom. We challenged the Department's decision on due process grounds, relying on recent precedents in Pennsylvania's state courts that utilize a robust version of the rational basis test to assess the constitutionality of arbitrary government denials of liberty. We are now finishing fact-discovery and expect to file a motion for summary judgment this fall.

Swedenburg, et al. v. Kelly, et al.

After ruling in our favor, the Supreme Court remanded the case back to the Second US Circuit Court of Appeals, and we are still awaiting movement on the case. The Second Circuit needs to determine whether a recently enacted New York law allowing non-New York wineries to direct-ship disposes of the case, or whether some other remedy is in order. The new law contains a reciprocity provision, which allows direct shipment only from wineries in states that allow direct shipment themselves. The law defines reciprocity states as those whose direct shipping privileges are "substantially similar" to New York's. Because California and Virginia (where our clients are located) have slightly different quantity limitations than New York, it is not entirely clear whether our clients can qualify for direct shipping permits in New York. In 2005, both sides submitted letter briefs to the Second Circuit on the remedy question, with the state asking for a dismissal and IJ asking for a remand to allow Judge Berman, our original judge who ruled in our favor in the district court, to decide that question. We still have yet to hear from the Second Circuit.

MPLS Taxi Owners Coalition v. City of Minneapolis, A New Star Taxi, Inc., Intervenor

The Institute for Justice successfully lobbied the Minneapolis City Council to lift and then eliminate the cap on the number of taxicabs licensed in the city. Specifically, in 2006, Minneapolis enacted an ordinance that ends the city's cap on the number of taxis, the use of the "public convenience and necessity test" for new applications, and the taxi cartel that was created in the 1940s. Under the new ordinance, the city will authorize annually 45 additional taxis until it eliminates the cap altogether in 2011. In response, a coalition of 53 transferable taxi license holders sued the city in March, with the claim that the reforms violated their constitutional rights by depriving them of the value of their taxi licenses on a secondary market in which transferable taxi licenses were selling for up to \$25,000 due to the artificial scarcity created by the regulatory barriers to entry that had been in place under the former regime. The taxi license holders did not allege, however, that their freedom to use or transfer their taxi licenses was in any way restricted by the reforms. In May 2007, the Institute for Justice moved to intervene in the case on behalf of a taxi entrepreneur, Luis Paucar of A New Star Taxi, and a consumer, Blanca Prescott. A proposed motion to dismiss was included with the motion to intervene. A New Star Taxi has a direct interest in the taxi reforms in so far as it was awarded 12 new taxi licenses. Blanca is a blind single mother of three who relies on A New Star Taxi's services for transportation. The Court granted the motion for Luis Paucar of A New Star Taxi to intervene but denied the same motion for Blanca Prescott. IJ-Minnesota has moved to dismiss the fifth count of the Plaintiff's Complaint, an equal protection challenge to the ordinance. Our motion to dismiss was based on the fact that the Plaintiff failed to allege that the city engaged in invidious discrimination as the basis for changing its taxi regulations. A hearing on our motions to dismiss is scheduled for August 31, 2007, in U.S. District Court in Minneapolis.

Ventenbergs, et al. v. City of Seattle, et al.

The Institute for Justice filed a state court lawsuit in 2003 challenging Seattle's waste-hauling monopoly as an unconstitutional abridgement of economic liberty. In 2001, the city of Seattle declared hauling construction waste away from building sites illegal—unless the company doing the hauling is one of two large, out-of-state hauling companies granted a monopoly by the city. That prohibition made illegal business conducted for years between Joe Ventenbergs' Seattle based Kendall Trucking and his client Ron Haider, owner of Haider Construction, Inc., based in Lynnwood, Washington. About 60 percent of Kendall Trucking's business is hauling so-called "construction waste" from building and demolition sites, and Haider Construction is one of several companies that rely on Kendall Trucking's services. After our loss in the Court of Appeals, we petitioned the Washington Supreme Court to hear the case, and a little over a month later, the Court upheld the decision for the city, Rabanco, and Waste Management. In a disappointing and cursory Unpublished Opinion, the Court wrote that the city may restrict people from hauling solid waste because the regulation of its collection is a police power function, and because no valid contract existed between Ventenbergs and Haider the claim was frivolous, and therefore the arguments were moot. The Institute for Justice filed a Petition for Review with the Supreme Court, requesting that it review whether the Court of Appeals erred in its ruling. In 2006, a department of the Washington Supreme Court referred our petition for review to the full court, which was granted in January 2007. We argued the case two months

later, and are currently awaiting a decision.

Bhandari v. Nilsestuen

On June 26, 2007, the Institute for Justice filed suit in Wisconsin State Court on behalf of Raj Bhandari, an entrepreneur who seeks to vindicate his right to earn an honest living. Bhandari, who owns a gas station in Merrill, Wisconsin, tried to increase his sales and build deeper roots in his community by offering a pair of discounts on gasoline—one to senior citizens and one to people who had donated to support a local youth hockey league. The discounts were a hit—with everyone except the state, which sent him a memorandum warning that his discounts could put him at risk of thousands of dollars in fines under Wisconsin’s Unfair Sales Act. The Act makes it illegal to sell any merchandise below “cost”—and it defines “cost” for retail gasoline by requiring a markup of 9.18 percent over the wholesale price. Raj discontinued his discounts, much to the dismay of his customers, and joined forces with IJ to strike down the Unfair Sales Act.

Amicus Briefs

- State of Alabama v. Lupo
- Walsh v. City and County of Honolulu

PROPERTY RIGHTS

Brody v. Port Chester

To briefly recap the most recent history of this lengthy litigation (originally filed in 2000), in 2005 the Second U.S. Circuit Court of Appeals held that using newspaper notice that did not mention anything about an owner’s sole opportunity to challenge the future taking of his property is indeed a due process violation. Specifically, the court agreed that newspaper notice is inadequate and the notice must say at least something to indicate that it is important to the person’s future rights. The court did not require explicit detailing of the statutory procedures, and it also ruled against us on our claim that owners were entitled to an opportunity to present evidence. The Second Circuit also suggested that there should be a trial on whether Bill Brody actually knew about the 30-day window. On remand from the Second Circuit, a trial was held in the U.S. District Court in March 2007 on whether Brody received “actual notice.” We await decision.

Brumberg, et al. v. City of Marietta, et al.

This is a rental property inspection case in which we prevailed in the trial and intermediate appellate court level. The Georgia Supreme Court subsequently denied *certiorari*, which makes our victory official. This case presented both statutory issues (namely, that the city of Marietta’s inspection ordinance was preempted by state law) and constitutional issues (unreasonable searches under the Fourth Amendment). We argued the constitutional issues and the statutory issues were handled by two groups of landlords in separate lawsuits, all of which ended up being consolidated together. It is black-letter law that courts should avoid

constitutional issues when they can, and in this case the statutory claim asserted by the landlords was compelling. As a result, the courts confined their analysis to the statutory issues and did not reach our constitutional claims.

City of Burien v. Strobel Family Investments

The city of Burien, Wash. is building a new “Town Square” development project in the city’s downtown area. The Strobel Family’s property is located within the area designated for the project. Its current use as a diner-style restaurant is not upscale enough for the city’s liking, so the city decided to condemn it. To avoid a public use issue, the city claimed it needed the property for a road to run through Town Square, rather than for one of the private residential or retail buildings that will comprise Town Square. The Strobel Family challenged the subsequent condemnation, claiming that the family’s property was in no way necessary for the road. The trial court judge seemed to agree, noting that the road could have been easily accomplished without affecting the property. Nevertheless, because of the amount of deference Washington courts are required to give government “necessity” determinations, he held that the property was necessary for the road. The Court of Appeals affirmed. We petitioned the Washington Supreme Court for review of the city of Burien’s condemnation of the Strobel sisters’ property. We argued that the Strobels’ property was not “necessary” for the project, as is required to sustain a condemnation under Washington law. The Supreme Court denied our petition on December 4, 2006.

City of Long Branch v. Brower, et al.

In 1996, the city of Long Branch, N.J., embarked on a comprehensive redevelopment of its declining waterfront. While parts of the waterfront were run down, other areas were healthy and charming. The best part of the waterfront is a little neighborhood called MTOTSA (an acronym based on neighborhood street names). MTOTSA is home to working-class families and retirees, some in their nineties. They have wonderful stories. Between November 2005 and February 2006, Long Branch served condemnation complaints on MTOTSA residents who had rejected offers to sell voluntarily. Unsurprisingly, Long Branch characterized MTOTSA as “blighted” even though it is an ordinary neighborhood. In 2006, the Monmouth County Superior Court ruled that the city of Long Branch could invoke a bogus “blight” designation as an excuse for using its power of eminent domain to seize the neighborhood for “redevelopment.” This decision gave Long Branch the green light to replace modest homes with fancier ones, and working-class families and retirees with rich and trendy professionals. Not only did the Superior Court allow these condemnations, it refused to let the homeowners even present evidence that their homes are not “blighted.” We appealed to the Court of Appeals. Our opening brief with the Court in February 2007. Briefing is now complete and we await an oral argument date.

Didden v. Port Chester

Bart Didden owned a piece of property at the border of the redevelopment area, and made a deal with CVS to build a pharmacy there. A private developer went to him and said that he wanted to put a Walgreen’s there, and unless Didden paid him \$800,000 or made him a partner,

he would condemn the property. Didden refused, and the village of Port Chester duly condemned. We were especially concerned by one aspect of the trial court's ruling—namely, that the demand for \$800,000 was not actionable because you can't complain if someone threatens to do something that they have a right to do. We filed an amicus brief. In April 2006, the Second Circuit affirmed the lower court's decision, deftly avoiding every important issue by holding that the case was barred by the statute of limitations. It also partly relied on the Institute for Justice's *Kelo* decision. The owners asked for *en banc* review, but the motion was denied. We then filed a petition for *certiorari* with the U.S. Supreme Court. Both Pacific Legal Foundation and a group of professors, including Richard Epstein and former IJ law clerk Ilya Somin, filed amicus briefs supporting review. However, the Supreme Court denied review.

Gamble, et al. v. City of Norwood

In Norwood, we won a complete victory under the Ohio Constitution, but the case is now on remand before the trial court. Issues such as return of title, damages to the properties, and the other side's demand that two of our clients pay to them the amount of the jury award withdrawn by their mortgage company are outstanding. Joy Gamble reached a purchase settlement because her husband Carl was very ill, and she needed the money to pay for his long-term medical care. We did reach a settlement on her behalf. Unfortunately, Carl recently passed away. IJ's other client in the case, the Burtons, have had settlement discussions with the developer, but they are more than happy to keep their property and do something with it—such as lease it to someone else to run a business there—down the road. The developer unreasonably maintains that it has no responsibility for any damage caused to the Burtons' property as a result of the condemnation, and wants to wash its hands of the whole affair. Thus, we are currently litigating the issue of what compensation the developer and Norwood owe to the Burtons for the temporary taking of their property.

Kelo, et al. v. City of New London, et al.

Susette Kelo's little pink cottage—the home that became a national symbol of the fight against eminent domain abuse—will be spared from the wrecking ball. Faced with eviction and the destruction of her beloved home, Susette put forward an idea that she had originally proposed when first threatened with eminent domain abuse and even before IJ became involved in the case: preserving the home and moving it. When she first proposed this idea, the New London Development Corporation (NLDC) rejected it. In June 2006, with IJ spearheading the negotiations and agreement, the City, NLDC and the state of Connecticut agreed to the move. The precise location has not yet been determined. Susette's house was actually moved to Fort Trumbull over 100 years ago from another location in New London. We worked out an additional agreement for one of the homeowners. While Susette's agreement signifies her deep attachment to her home, the agreement reached with the other remaining homeowner, the Cristofaros, reflects the family's deep affiliation with the Fort Trumbull neighborhood, where they have lived for more than 30 years. Although the Cristofaros will lose their current home, under the agreement negotiated by IJ, the City and the NLDC will support an application for more housing in Fort Trumbull, and the Cristofaro family has an exclusive right to purchase one of the homes at a fixed price. Moreover, a plaque will be installed in the Fort Trumbull neighborhood to commemorate the loss of family matriarch Margherita Cristofaro, who passed

away while the battle against eminent domain abuse occurred in New London. The City also has agreed to move the trees that father Pasquale Cristofaro transplanted 30 years ago, when the previous Cristofaro home was taken by eminent domain.

EMINENT DOMAIN

National City, Calif.

On June 19, 2007, the Institute for Justice launched its representation of the Community Youth Athletic Center (CYAC) in National City, California. The CYAC is a non-profit boxing club for inner city at-risk kids in the working-class enclave of National City in San Diego County. The gym's mission, at which it has been wildly successful, is to use boxing to teach discipline and self-respect. The gym also offers tutoring and mentoring. The gym began in the backyard of its founders, Carlos Barragan, Sr. and his son, Carlos, Jr. They were tired of seeing promising young men lost to the streets and prisons, and decided to do something to combat the destructive gang subculture. Their solution was to hang a punching bag in their backyard and teach boxing. They moved the gym into a garage that they had rented with their own money, and soon after, with the support of generous benefactors, the program bought a small building. Four years later, in 2005, the city approved a luxury condo development where the gym sits, and declared the area in which the gym sits blighted, along with two-thirds of the city. The Barragans began to receive eminent domain threat letters from the developer and the city trying to push the gym out. In the spring of 2007, the city decided to extend eminent domain authority in parts of its blight zone for 12 more years. The gym realized that it was a target so it teamed up with the Institute for Justice to contest the authorization of eminent domain over nearly 700 properties. As part of this effort, IJ prepared an extensive objection to the redevelopment plan for the June 2007 public hearing. As of June 20, 2007, we are awaiting the city's next move.

Stewart, et al v. City of Red Wing

In 2006, Institute for Justice filed a Fourth Amendment challenge to the City of Red Wing, Minnesota's rental inspection ordinance. Red Wing adopted an ordinance in early 2004 that made it illegal to operate rental apartments without an "operating license." The ordinance requires landlords to agree to inspections of their rental properties when they apply for their operating license. If the landlord refuses to allow the inspection, the ordinance instructs the City to withhold the operating license until the inspection occurs. Thus, the City's ordinance coerces consent to inspections by threatening landlords with the non-issuance of their operating license. If tenants refuse, they risk eviction because the landlord will be unable to legally rent to them. Landlords operating rental units without a license subject the landlords to misdemeanor charges, fines, and imprisonment. The Institute for Justice represents seven landlords and three tenants. Defendants in the case removed the case to federal court. We are engaged in discovery and a trial date in 2008 has been set.

Wells v. City of Riviera Beach

In 2006, we filed a lawsuit on behalf of Riviera Beach, Florida home and business owners, Princess Wells, Mike and Nora Mahoney, and Artis Reaves against the city of Riviera

Beach and its redevelopment agency in state court in Palm Beach County. Our lawsuit focused on two things: Florida's new eminent domain law, which effectively pans the use of eminent domain for private development; and the city's assertion that an "agreement to agree" it signed with its master developer one day before the law was signed prevented the new law from applying. The city eventually conceded that the "agreement to agree" had expired and could not be the legal basis for the use of eminent domain. Then, in March 2007, the Mayor and all City Council members who had approved the "agreement to agree" got swept out of office; their replacements were not in favor of the project and have stated that eminent domain won't be used. With the threat posed by the "agreement to agree" gone, the goal of our lawsuit was accomplished (and its claims mooted), so we took a voluntary dismissal on May 10, 2007. These government officials are the latest casualties in the backlash against eminent domain abuse since II's *Kelo* case. In addition to assisting with the grassroots action in Riviera Beach, we helped to save 5,000 residents as well as many small businesses from being replaced with a yachting complex, luxury housing and other private commercial uses.

Amicus Briefs

- Blue, et al. v. City of Los Angeles, et al.
- Central Steel Supply Co., Inc. v. Planning Board of the City of Somerville
- City of Baltimore Development Corporation v. Carmel Realty Associates
- City of Pasco v. Shaw, et al.
- Des Moines v. Gray Businesses Amicus
- First FSK Limited Partnership, et al. v. National Capital Revitalization Corp.
- Gallenthin Realty v. Borough of Paulsboro
- Housing & Redevelopment Authority for the City of Bloomington (MN) v.
- Bloomington Professional Building, LLC.
- MacPherson v. Dep't of Admin. Servs.
- Nevadans for Protection of Property v. Heller
- Public Utility District No. 2 of Grant County v. North American Foreign Trade Zone Industries, LLC
- Western Seafood v. Freeport

Application for Extension of Time To File an Exempt Organization Return

OMB No. 1545-1709

► File a separate application for each return.

- If you are filing for an **Automatic 3-Month Extension**, complete only **Part I** and check this box ☒
 - If you are filing for an **Additional (not automatic) 3-Month Extension**, complete only **Part II** (on page 2 of this form).
- Do not complete Part II unless you have already been granted an automatic 3-month extension on a previously filed Form 8868.**

Part I Automatic 3-Month Extension of Time - Only submit original (no copies needed)

Form 990-T corporations requesting an automatic 6-month extension - check this box and complete Part I only ☐

All other corporations (including Form 990-C filers) must use Form 7004 to request an extension of time to file income tax returns. Partnerships, REMICs, and trusts must use Form 8736 to request an extension of time to file Form 1065, 1066, or 1041.

Electronic Filing (e-file). Form 8868 can be filed electronically if you want a 3-month automatic extension of time to file one of the returns noted below (6 months for corporate Form 990-T filers). However, you cannot file it electronically if you want the additional (not automatic) 3-month extension, instead you must submit the fully completed signed page 2 (Part II) of Form 8868. For more details on the electronic filing of this form, visit www.irs.gov/efile

Type or print	Name of Exempt Organization	Employer identification number
	INSTITUTE FOR JUSTICE	52-1744337
	Number, street, and room or suite no. If a P.O. box, see instructions. 901 NORTH GLEBE ROAD, NO. 900	
File by the due date for filing your return. See instructions	City, town or post office, state, and ZIP code. For a foreign address, see instructions. ARLINGTON, VA 22203	

Check type of return to be filed (file a separate application for each return):

- | | | |
|--|---|------------------------------------|
| <input checked="" type="checkbox"/> Form 990 | <input type="checkbox"/> Form 990-T (corporation) | <input type="checkbox"/> Form 4720 |
| <input type="checkbox"/> Form 990-BL | <input type="checkbox"/> Form 990-T (sec. 401(a) or 408(a) trust) | <input type="checkbox"/> Form 5227 |
| <input type="checkbox"/> Form 990-EZ | <input type="checkbox"/> Form 990-T (trust other than above) | <input type="checkbox"/> Form 6069 |
| <input type="checkbox"/> Form 990-PF | <input type="checkbox"/> Form 1041-A | <input type="checkbox"/> Form 8870 |

- The books are in the care of ► **THE ORGANIZATION**
Telephone No. ► **703-682-9320** FAX No. ► _____
- If the organization does **not** have an office or place of business in the United States, check this box ☐
- If this is for a **Group Return**, enter the organization's four digit Group Exemption Number (GEN) _____. If this is for the **whole** group, check this box ☐. If it is for part of the group, check this box ☐ and attach a list with the names and EINs of all members the extension will cover.

- 1 I request an automatic 3-month (6-months for a **Form 990-T corporation**) extension of time until **FEBRUARY 15, 2007** to file the exempt organization return for the organization named above. The extension is for the organization's return for:
► ☐ calendar year _____ or
► ☒ tax year beginning **JUL 1, 2005**, and ending **JUN 30, 2006**
- 2 If this tax year is for less than 12 months, check reason: ☐ Initial return ☐ Final return ☐ Change in accounting period
- 3a If this application is for Form 990-BL, 990-PF, 990-T, 4720, or 6069, enter the tentative tax, less any nonrefundable credits. See instructions \$ _____
- b If this application is for Form 990-PF or 990-T, enter any refundable credits and estimated tax payments made. Include any prior year overpayment allowed as a credit \$ _____
- c **Balance Due.** Subtract line 3b from line 3a. Include your payment with this form, or, if required, deposit with FTD coupon or, if required, by using EFTPS (Electronic Federal Tax Payment System). See instructions \$ **N/A**

Caution. If you are going to make an electronic fund withdrawal with this Form 8868, see Form 8453-EO and Form 8879-EO for payment instructions.

LHA For Privacy Act and Paperwork Reduction Act Notice, see instructions.

Form 8868 (Rev. 12-2004)